

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING
April 20, 2004**

PLACE: Room 206
Town Hall

TIME: 8:00 P.M.

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Bigelow, Spain, Forman, Conze, Kenny

STAFF ATTENDING: Ginsberg, Keating

Chairman Damanti was having a problem with his voice and so he asked Vice Chairman, Mr. Conze, to assist him by reading the agenda items. The first agenda item was:

Amendment of Special Permit #159-B, Darien Doughnut/Donut Inn, 370 Heights Road, DC Zone.

Request to use a 1500 square foot +/- space formerly occupied by Big Shots Photo Shop within the Noroton Heights Shopping Center rather than the space recently approved by the Commission in January 2004.

Mr. Ginsberg explained that some of the existing building spaces within the western most building of the Noroton Heights Shopping Center will be coming vacant and this would allow the shopping center owner and the operators of Darien Doughnut to relocate to a portion of the building that Darien Doughnut now operates from. Mr. Ginsberg explained that an important aspect of the recent approval from the Planning & Zoning Commission was to create a secondary means of access so that Darien Doughnut could take advantage of the parking lot in the rear of the building. The new 1,500 square foot space would be slightly larger than the previously approved area but the number of seats would not be increased above 8. The increased floor area would make it easier for customer queuing, safer for customers and workers and a more healthy situation with respect to food handling processes. Several Commission members felt that the slight relocation was a great idea and would not necessitate a new Special Permit. They felt that amending the existing Special Permit without a public hearing was appropriate.

The proposed relocation of Darien Doughnut/Donut Inn to a 1,500 square foot +/- space within the same building was approved by the Commission subject to submission of complete construction drawings and plans to verify compliance with health, fire safety and building code requirements as well as being in accordance with the past zoning approval regarding the number of seats and counter space and access to the rear parking lot.

Mr. Conze read the following agenda item:

Requested Amendment of Subdivision Application #501, Sullivan, 26 Oak Crest.

Request to eliminate or modify Note #10 regarding cul-de-sac turnaround.

Director of Planning, Jeremy Ginsberg, reviewed Zoning Enforcement Officer, David Keating's memo and the responses from the Police Department, Fire Marshal and Public Works Department. The Fire Marshal is particularly concerned about the lack of a turn around area at the end of Oak

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Crest. He said that the land should be acquired by the Town in the near future and the turn around area should be constructed to improve public safety. Mr. Spain noted that the decision to surrender the rights for the Town to acquire the land for the turn around would not be a decision solely for the Planning & Zoning Commission. Mr. Conze said that it is a long, dead end street and, if the Town gives away the right to create a turn around, in a few years we might regret it.

Attorney Wilder Gleason represented the current property owner and said that for 30 years nothing has happened with this right of the town to acquire the land for the turn around area. He said that another solution might be the creation of a turn around area by the property owner and then giving the Town an easement to utilize the turn around area. This would allow the property to stay, to remain privately owned and then the Town could release a large turnaround area. He asked for additional time to consult with his client and to develop a plan that would meet the Town's desires for an improved safety and still allow the property to be privately owned. No action was taken by the Commission.

Mr. Conze read the following agenda item:

Amendment of Business Site Plan #186-A, Darien Fire Department, 848 Boston Post Road, CBD Zone.

Request to remove existing concrete deck, and replace it with a larger wood deck.

Mr. Ginsberg said that plans are in the works but have not yet been submitted for the Commission to review.

Mr. Conze read the following agenda item:

Coastal Site Plan Review #186-A, Flood Damage Prevention Application #198-A, Denis & Jennifer Manelski, 11 Pratt Island. Proposing to raze the existing residence, garage and greenhouse, and construct a new residence on the existing foundation with an addition, a garage, and a swimming pool, and perform related site development activities within regulated areas. The subject property is located on the south side of Pratt Island approximately 1,150 feet south of the intersection of Nearwater Lane and Baywater Drive, and is shown on Tax Assessor's Map #55, as Lots #121 and #122 in the R-1 Zone.

The following motion was made: that the Planning & Zoning Commission has reviewed draft resolutions regarding this and the following seven agenda items and has had an opportunity to review those draft resolutions prior to the meeting. Therefore, it would be appropriate to waive the process of reading each resolution aloud. The motion was made by Mr. Kenny, seconded by Mr. Spain and unanimously approved.

The Commission discussed the draft Resolution and after several minor modifications that were agreed to by all members, the following motion was made: that the Commission adopt the following Resolution to approve the application:

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Application Number: Coastal Site Plan Review #186-A
Flood Damage Prevention Application #198-A

Street Address: 11 Pratt Island
Tax Assessor's Map #55 Lots #121 & #122

Name and Address of Applicant & Property Owner: Denis & Jennifer Manelski
57 Gramercy Avenue
Rye, NY 10580

Name and Address of Applicant's Representative: Robert F. Maslan, Jr.
Maslan Brown & Associates
9 Old King's Highway South
Darien, CT 06820

Activity Being Applied For: Proposing to raze the existing residence, garage and greenhouse, and construct a new residence on the existing foundation with an addition, a garage, and a swimming pool, and perform related site development activities within regulated areas.

Property Location: The subject property is located on the south side of Pratt Island approximately 1,150 feet south of the intersection of Nearwater Lane and Baywater Drive

Zone: R-1

Date of Public Hearing: February 24, 2004 continued to March 2, 2004

Time and Place: 8:00 P.M. Auditorium and Room 206 Town Hall

Publication of Hearing Notices
Dates: February 11 & 18, 2004

Newspaper: Darien News-Review

Date of Action: April 20, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
April 29, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810 and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

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- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

- A. The subject application is to raze the existing residence, garage and greenhouse, and construct a new residence on the existing foundation with an addition, a garage, and a swimming pool, and perform related site development activities within regulated areas. It is comprised of two parts: 1) a Coastal Site Plan Review under Section 810 of the Darien Zoning Regulations; and 2) a Flood Damage Prevention Application under Section 820 of the Darien Zoning Regulations. Although the existing residence is currently served by an on-site septic system, the application notes that the new residence will tie into the recently installed sanitary sewer system.
- B. At the public hearing, it was noted that the applicant had received approval dated February 13, 2004 from the Zoning Enforcement Officer (ZEO) under Section 8-26(a) of the Connecticut General Statutes (the "Poirier" approval) with respect to the existing lot width and the side yard setback requirements. It was explained that said approval was being appealed to the Zoning Board of Appeals (ZBA) by the Mills', the adjacent property owners. As of the close of the March 2, 2004 public hearing, that appeal had yet to be heard. It was acknowledged that the applicant's design of the site development is dependent upon the determination under Section 8-26a of the Statutes, and that any decision herein may be rendered moot by a subsequent overturning of the ZEO's decision by either the ZBA or a higher authority.
- C. At the public hearing, the applicant mentioned that the proposed residence will comply with the existing thirty foot height requirement in the Darien Zoning Regulations.
- D. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
- E. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties.
- F. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
- G. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
- H. The potential adverse impacts of the proposed activity on coastal resources are acceptable.
- I. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

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- J. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #186-A and Flood Damage Prevention Application #198-A are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- 1) Construction shall be in accordance with the plans submitted to and reviewed by the Commission, as required to be modified herein:
 - Zoning Location Survey of #11 Pratt Island prepared for Denis Manelski Jennifer Manelski, by William W. Seymour & Associates, dated December 31, 2002, and last revised to Nov. 26, 2003.
 - Site Improvements, Surface Drainage Plan by John Roberge, PE, dated 8/22/03.
 - Manelski Residence: New Residence 11 Pratt Island, by Paul Benowitz Architects AIA, dated Nov. 18, '03
 - a) Sheet A-2 Elevations;
 - b) Sheet A-1 Floor Plan;
 - c) Sheets A-1 Foundation Plan last revised 3-1-04;
 - d) Sheet A-1 Floor Plans
- 2) Plans shall be revised to include the following:
 - a wrought iron pool fence at least four feet high at the perimeter of the proposed terrace/patio around the proposed swimming pool;
 - the installation of an anti-tracking pad in front of the property;
 - location of pool equipment and HVAC units to comply with the setback requirements and behind (on the west side of) the garage or connector between the house and garage and placed on an anchored platform in order to comply with the flood regulations.
 - the pool equipment and HVAC units shall be surrounded by a lattice fence and landscaping to soften the view of the equipment.
 - details of any proposed fuel tank(s) to comply with setback and flood damage prevention requirements, and, if above ground, surrounded by lattice fence and landscaping.
 - more detailed labeling of the elevations of the crawl space slab, first floor, driveway, and ground levels around the proposed house.
1. Plans were submitted showing the existing basement being filled, and regraded to create a crawl space below the proposed residence. That crawl space shall not exceed a height of 5 feet from the slab to the underside of the joists of the first floor. There shall be no utilities or equipment in the crawl space.
2. Accompanying the Zoning and Building Permit applications and prior to commencing construction, more detailed drawings of the flood damage prevention anchoring designs shall be submitted along with certification from a licensed architect and/or engineer, that verifies that the final designs of the new residence comply with the applicable requirements. Upon completion of the construction and prior to occupancy or issuance of a Certificate of Occupancy, the applicant shall provide written certification from the architect and/or engineer

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that the construction has been completed in accordance with the approved plans and the flood damage prevention requirements.

3. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
4. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
5. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
6. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (April 19, 2005). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan, as required herein to be amended, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. All completed requirements and materials shall be submitted to the Planning and Zoning Department within 60 days of the upcoming ZBA action (the appeal by the Mills of the ZEO's decision) or this approval shall become null and void.

The motion was made by Mrs. Forman, seconded by Mr. Bigelow and unanimously approved.

Coastal Site Plan Review #125-B, Flood Damage Prevention Application #123-B, John B. Ward, 32 Beach Drive. Proposal to construct additions and alterations to the existing residence and perform related site development activities within regulated areas. The subject property is located on the west side of Beach Drive approximately 225 feet south of its intersection with Outlook Drive, and is shown on Tax Assessor's Map #53 as Lot #6 in the R-1/2 Zone.

After discussing the draft Resolution, the following motion was made: that the Commission adopt the following Resolution and approve the project.

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Application Number: Coastal Plan Site Review #125-B
Flood Damage Prevention Application #123-B

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Tax Assessor's Map #53, Lot #6

Name and Address of Property Owner: John B. Ward
And Applicant: 32 Beach Drive
Darien, CT 06820

Name and Address of William W. Seymour & Associates
And Applicant's Representative: 170 Noroton Avenue
Darien, CT 06820

Activity Being Applied For: Proposal to construct additions and alterations to the existing residence and perform related site development activities within regulated areas.

Property Location: The subject property is located on the west side of Beach Drive approximately 225 feet south of its intersection with Outlook Drive.

Zone: R-1/2 Zone

Date of Public Hearing: January 27, 2004 continued to February 24, 2004 and March 23, 2004

Time and Place: 8:00 P.M. Room 206 and Auditorium Town Hall

Publication of Hearing Notices

Dates: January 15 & 22, 2004
February 12 & 19, 2004
March 11 & 18, 2004

Newspaper: Darien News-Review

Date of Action: April 20, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
April 29, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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Following careful review of the submitted application materials and related analyses, the Commission finds:

1. This application is to construct additions and alterations to the existing single-family residence and perform related site development activities within regulated areas. It is comprised of two parts: 1) a Coastal Site Plan Review under Section 810 of the Darien Zoning Regulations; and 2) a Flood Damage Prevention Application under Section 820 of the Darien Zoning Regulations. There is no regrading as part of this application.
2. The Zoning Board of Appeals (ZBA) approved an application for this project (Calendar No. 97-2003) on December 17, 2003. The Environmental Protection Commission approved an application for this project (EPC #6-2004) on March 3, 2004. Those decisions are hereby incorporated by reference. It was noted at the ZBA public hearing that the HVAC units will be located in the attic, rather than placed on a platform on the ground. This will enable the applicant to comply with the Town's building coverage requirement.
3. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
4. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.
5. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
6. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
7. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures that would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #125-B and Flood Damage Prevention Application #123-B are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Zoning Location Survey 32 Beach Drive prepared for John B. Ward, scale 1"=20', by William W. Seymour & Associates, last revised August 20, 2003.
 - New Addition & Alterations residence of Mr. John Ward, by Michael Palumbo Designs, last revised 11-14-03, Drawing Numbers A-1 through A-7.

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- 32 Beach Drive Site Improvements, Surface Drainage Plan by John C. Roberge, PC, LLC, dated 8/26/03.
- B. It was noted during the public hearing on this matter that the application reflects completed construction that will result at 19.9% coverage, and a structure that measures 29'8" high. Both of these are extremely close to the 20% coverage maximum and 30 foot building height maximum. The applicant is required to take great caution to ensure all applicable coverage and building height regulations are being complied with, and the applicant shall provide an "as built" survey map to verify compliance after the work is completed and prior to occupancy or a Certificate of Zoning Compliance.
- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. Prior to the request for the Zoning Permit for the construction of the new residence, the applicant or owner shall submit certification from a licensed architect or professional engineer that the foundation structures have been designed to withstand all flood forces and comply with the flood damage prevention requirements for structural stability.
- E. When the construction is nearing completion, written certification shall be provided from a registered Professional Architect or Professional Engineer that the construction and flood proofing has been completed in conformance with this permit and the Zoning Regulations. This certification shall be provided to the Planning and Zoning Department prior to use or occupancy of the house and prior to the issuance of a Certificate of Occupancy, per Section 829e of the Darien Zoning Regulations.
- F. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- G. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this approval as it deems appropriate.
- H. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (April 19, 2005). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan, as approved, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

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The motion was made by Mr. Kenny, seconded by Mr. Bigelow and unanimously approved.

Special Permit Application #221-D, Celco Partnership d/b/a Verizon Wireless, 4 Tower Drive.

Proposing to install wireless telecommunications antennas (twelve panel antennas) on top of the concrete water tank within a new "cap" on the existing concrete shell, and to install an equipment shelter within the existing tank housing. The subject property is located on the south side of Tower Drive approximately 250 feet east of its intersection with Mansfield Avenue, and is shown on Tax Assessor's Map #1 as Lot #136, R-2 Zone.

The Commission members discussed several modifications and clarifications of the draft Resolution. Mr. Kenny said that he was generally opposed to the application and could not support it because it does not seem necessary or appropriate. He said that the water tower is a clear and visual landmark that people are used to and changing the configuration of that tower does not seem necessary. He said that Celco has not demonstrated to his satisfaction that their antenna system could not work at elevation 88 (within the existing tower) and that it is only because they desire to have the antennas 20 feet higher that they need to put a new cap on the tower. He said that extending the height of the tower is not mandated by the federal guidelines just so that Verizon will have more capacity. He also felt that the wording of the resolution was not strong enough to mandate that the water company effectively manage and control the site to avoid some of the problems that have already been created to the detriment of the neighbors.

Mr. Spain said that the regulations adopted by the Planning & Zoning Commission do not allow antennas only if there is no visual change but the regulations strongly encourage the co-location of antennas on existing towers and strongly discourages the creation of new towers on a different site. He said that he would prefer to have the existing tank around the water tower slightly modified rather than have a new tower created elsewhere. Mr. Conze said that he felt there was no quantitative change to the appearance of the tower and that the tower was hardly a landmark. The following motion was made: that the Commission adopt the following resolution to approve the Special Permit Application:

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Application Number: Special Permit Application #221-D

Tax Assessor's Map #1 Lot #136
Street Address: 4 Tower Drive

Name and Address of Applicant: Celco Partnership d/b/a Verizon Wireless
C/o Sandy Carter, Regulatory Manager
99 East River Drive
East Hartford, CT 06108

Name and Address of Applicant's Representative: Kenneth Baldwin, Esq.
Robinson & Cole, LLP

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280 Trumbull Street
Hartford, CT 06103-3597

Name and Address of Property Owner: Aquarion Water Company of CT
1 Canal Street
Westport, CT 06880

Activity Being Applied For: Proposing to install wireless telecommunications antennas on the existing concrete water tank and to install an equipment shelter within the existing tank housing.

Property Location: Subject property is located on the south side of Tower Drive approximately 250 feet east of its intersection with Mansfield Avenue.

Zone: R-2

Date of Public Hearing: February 24, 2004 continued to March 23, 2004

Time and Place: 8:00 P.M. Auditorium and Room 206 Town Hall

Publication of Hearing Notices

Dates: February 12 & 19, 2004
March 11 & 18, 2004

Newspaper: Darien News-Review

Date of Action: April 20, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
April 29, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 950 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. As noted above, Aquarion Water Company is the subject property owner, and Cellco Partnership d/b/a Verizon Wireless is the applicant. Verizon Wireless is fully licensed in the State of Connecticut. There are other companies who now have antennas within the existing

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water tower enclosure at this location. The current proposal is the same as Special Permit #221-C as approved by the Commission July 16, 2002. That approval has expired.

2. The proposed antennas are proposed to be affixed 108' +/- above ground level (existing grade) and placed behind stealth screening. This will require that the side walls be raised in height but the peak will remain the same. The applicant's engineer has certified that the structural stability of the tower will not be degraded. The location of the proposed antennas is 18 feet higher than the AT&T wireless PCS antennas at elevation 90' +/- above ground level, approved as part of Special Permit #221; 22½ feet higher than the Nextel Communications antennas approved in Special Permit #221-A; and 10 feet higher than the Sprint PCS antennas approved in Special Permit #221-B.
3. The proposed 12' x 20' equipment cabinets will be placed inside the base of the tower enclosure that surrounds the water tank. No equipment is proposed to be stored or located outside of the enclosure other than two condensing units that will be placed on the southeast side of the existing tower as originally shown on Drawing C-2 of the submitted application.
4. The applicant noted that other alternatives for antenna locations in this area were examined. However, in order to provide Verizon Wireless capacity and coverage to the northern Mansfield Avenue area, this was determined to be the optimal location. Use of the existing tower structure, rather than erecting another tower, is the preference expressed in Section 950 of the Darien Zoning Regulations.
5. According to the submitted report, the Radio Frequency (RF) emissions from the antennas, as proposed, comply fully with all Federal standards. The antennas in combination with the other antennas now on the water tower also comply with all Federal standards.
6. Most of the monitoring of the antennas and related equipment will occur off-site. Therefore, there will be very little activity at this site after construction and installation is complete. Most likely, this will involve a monthly visit by a maintenance technician.
7. The location and size of the use, the nature and intensity of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.
8. The location and nature of the proposed use, are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
9. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Special Permit #221-D is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

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- A. Installation of the antennas and equipment shall be in accordance with the plans entitled:
- Cellco Partnership d.b.a. Verizon Wireless, Wireless Communications Facility, Darien East, 4 Tower Drive by Natcomm LLC. Sheets T-1, C-1, C-2, C-3 all dated 04/04/02, with Sheets T-1, C-2 revised 02/24/04; and Sheets C-1, C-3 revised 12/16/03.
- It is specifically noted that the new “cap” shall match the existing water tower enclosure with respect to color, texture, reflectivity and other visual characteristics.
- B. The location of the condensing units as shown on Sheet C-2 of the plans shall be modified in order to comply with the applicable front, side, and rear yard setbacks for the R-2 Zone. A plan for screening those condensers shall be prepared and submitted to the Planning & Zoning Director for his review and action prior to the issuance of a Zoning or Building Permit.
- C. RF emission testing under full power shall be conducted within 30 days of the antennas becoming operational. Actual instrument measurements of the signal shall be taken at the same locations as the chart presented in the application once the antennas are “on-air”. Within fourteen days of the test results, they shall then be filed with the Planning and Zoning Department, along with a statement from an independent qualified inspector that these are the actual emission signal levels measured on a clear day, and that they fall within FCC requirements. The RF emissions shall comply at all times with all applicable FCC standards.
- D. Verizon Wireless shall comply fully with all provisions in the current lease regarding equipment operations and maintenance. Due to the Commission’s policy to encourage co-location, the lessor cannot give Verizon Wireless exclusive rights to situate antenna(s) in this location.
- E. An as-built certification shall be submitted upon completion of construction, per Section 953.9 of the Darien Zoning Regulations.
- F. Because the antennas involve a very limited expansion of the water tank shell and will be fully enclosed in the water tower, the Commission hereby waives the requirement for posting of a bond.
- G. As explained by the applicant, the antennas and their emissions will not cause any electro-magnetic, radio, telephone or TV interference, nor shall it interfere with the structural integrity of the existing tower.
- H. A detailed procedure to deal with complaints about radio, telephone, television and other consumer electronic equipment shall be developed by Verizon Wireless and submitted to the Planning and Zoning Office prior to receiving a Zoning Permit or Building Permit. That Complaint Procedure shall also be filed with the Selectmen’s Office. The purpose of this procedure is that citizens will have a contact person at Verizon Wireless and prompt action will be taken by Verizon Wireless to remedy any interference caused by, or reasonably attributed to, the communications system.
- I. A detailed procedure to address issues related to construction activity, property maintenance or the timing or number of employee visits to the site shall be prepared by Verizon Wireless and the property owner, Aquarion Water Company. The procedure shall be submitted to the Planning and Zoning Office prior to receiving a Zoning Permit or Building Permit. That

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Procedure shall also be filed with the Selectmen's Office. The purpose of this procedure is that citizens will have a contact person at Aquarion Water Company and/or Verizon Wireless and prompt action will be taken by Aquarion Water Company and/or Verizon Wireless to remedy any problems relative to the construction activities, to property maintenance, or to employee visits. As noted within the application materials, the site shall be visited on the average of once a month for periodic maintenance by Verizon Wireless employees, and will be continuously monitored from off-site at all times.

- J. This permit will last for the extent of the lease. If, however, during the term of the lease, or any renewal thereof, the operation of the facility creates electro-magnetic, radio, telephone or television interference problems, Verizon Wireless shall immediately take all steps necessary to correct and eliminate any interference. If such interference cannot be eliminated within forty-eight hours after receipt of written notice of existence of such interference, Verizon Wireless shall discontinue use of the equipment. If repeated interference problems occur which the Commission deems unacceptable, the Commission reserves the right to review, and if appropriate after notice and hearing, terminate this Special Permit.
- K. If the telecommunications facility ceases operations at the water tower or is abandoned by Verizon Wireless, Verizon Wireless shall immediately notify the Planning and Zoning office. Within 30 days of ceasing operation, they shall submit a plan for both removing their equipment and assuring the structural stability of the tower and cap, certified by licensed engineer and approved by the Planning & Zoning Director. Verizon Wireless shall also remove all antennas and all related equipment, and notice thereof shall be furnished to the Planning and Zoning Commission upon completion of same.
- L. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- M. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- N. This permit shall be subject to the provisions of Section 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (April 19, 2005). This may be extended as per Section 1009.

All provisions and details of the plan, as required to be modified herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. All completed requirements and materials shall be submitted to the Planning and Zoning Commission, and a Special Permit form filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

The motion was made by Mrs. Forman and seconded by Mr. Spain. Voting in favor of the motion were Mrs. Forman and Misters Spain, Damanti, Conze and Bigelow. Voting in opposition to the motion was Mr. Kenny. The motion passed by a vote of 5 to 1.

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Special Permit Application #39-K, St. Luke's Episcopal Church, 1864 Boston Post Road.

Proposing to restore and renovate existing buffer zone; construct a furniture and clothes storage and sorting facility; construct a memorial garden path; enhance the memorial garden; and perform related site development activities. The subject property is located on the south side of Boston Post Road, at the southeast corner of its intersection with Ring's End Road, and is shown on Tax Assessor's Map #49 as Lots #52, #54, #55 and #56, R-1 and R-1/2 Zones.

Mr. Conze said that he would abstain from voting because he had not attended the public hearing. There was some discussion about the driveway near the Franklin house that provides access from Ring's End Road into the site. Further controls must be implemented by the church to make sure that it is not used as an exit driveway.

The following motion was made: that the Commission adopt the following resolution to approve the project:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
April 20, 2004**

Application Number: Special Permit Application #39-K

Tax Assessor's Map #49 Lots #52, #54, #55, #56

Name and Address of Property Owner: St. Luke's Episcopal Church
1864 Boston Post Road
Darien, CT 06820

Name and Address of Applicant: Wilder G. Gleason, Esq.
And Applicant's Representative: Gleason Hill & Ambrette, LLC
23 Old King's Highway North, PO Box 1267
Darien, CT 06820

Activity Being Applied For: Proposing to restore and renovate existing buffer zone; construct a furniture and clothes storage and sorting facility; construct a memorial garden path; enhance the memorial garden; and perform related site development activities.

Property Location: The subject property is located on the south side of Boston Post Road, at the southeast corner of its intersection with Ring's End Road.

Zone: R-1 & R-1/2

Date of Public Hearing: March 30, 2004

Time and Place: 8:00 P.M. Auditorium Town Hall

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Publication of Hearing Notices

Dates: March 18 & 25, 2004

Newspaper: The Darien News-Review

Date of Action: April 20, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of
Action: April 29, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 940 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

- A. The subject application consists of four parts: 1) to restore and renovate existing buffer zone; 2) construct a furniture and clothes storage and sorting facility; 3) construct a memorial garden path; and 4) enhance the memorial garden.
- B. The renovation of the buffer zone will replace plants that died, and install plants that are better suited to the environment. The Ring's End Road buffer will consist of Norway Spruce and Rhododendron. A separate buffer area will be supplemented between the church and the rectory.
- C. The construction of the new barn style storage facility will consist of removal of the existing building, and replacement with a new building. The building will have furniture storage on the first floor; clothing and other materials storage on the second floor. It will not be heated.
- D. The construction of the memorial garden path will extend the walkway by the side of Franklin House to the Rectory. All lighting along the path will be controlled from the Rectory. This path will be constructed within five years, as funds allow. The Rectory will not be used for "church functions". Occasionally, the minister and his wife will invite members of the church to events at their home, no different than a normal household may have and consistent with the residential use of the property.
- E. The memorial garden enhancement will be completed as donations allow. The memorial garden is located on either side of the proposed walkway to the Rectory, and wraps a bit around the playground fence.

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- F. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
- G. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
- H. The nature of the proposed changes and uses are such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.

NOW THEREFORE BE IT RESOLVED that Special Permit #39-K is hereby modified and granted subject to the foregoing and following stipulations and understandings:

- A. Construction, renovation and planting shall be in accordance with the plans entitled:
 - St. Luke's Episcopal Church Buffer Planting Plan Jan. 18, 2004, by Native Flora Designs.
 - St. Luke's Parish, Post Rd. at Rings End Road Proposed Bldg. For Person to Person, Drawing No. SK-1, last revised 3/9/2004.
 - Proposed Furniture Storage Bldg. Replacement for Person to Person at St. Luke's Parish, Sheets SK-7, SK-8, and SK-9, dated 7/19/03.
 - Prior to moving the shed onto the rectory parcel, a Zoning and Building Permit is required. The proposed new location for the shed shall comply in all respects with the Darien Zoning Regulations.
- B. Final review and approval from the Architectural Review Board is necessary for the new storage building.
- C. The driveway near the Franklin house is only an entrance into the church property. It is not an exit to Rings End Road. The small picket fence ("gate") shall continue to be placed on an "as-needed" basis in the Rings End Road driveway entrance of the Church and various sign(s) installed to discourage the use of Rings End Road driveway as an exit. This is consistent with past approvals is required as part of this approval.
- D. Any expansion of and/or changes to use or uses beyond that specified in this resolution will require prior approval per Section 1000 of the Darien Zoning Regulations.
- E. The Planning and Zoning Department shall be notified prior to commencement of work and after the sediment and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false,

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deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.

- G. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- H. This permit shall be subject to the provisions of Section 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (April 19, 2005). This may be extended as per Section 1009. The applicant specifically noted in the application materials that the request for the construction of the memorial garden path and enhancement of the memorial garden are long-term projects, and as such, those aspects are required to be installed by April 19, 2009.

A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

The motion was made by Mrs. Forman, seconded by Mr. Kenny. Everyone voted in favor of the motion except Mr. Conze who abstained because he had not attended the public hearing regarding this matter.

Mr. Conze read the next agenda item:

Amendment of Business Site Plan #24-K/Special Permit, Coromandel Cuisine of India Restaurant, 25 Old King's Highway North. Proposing expansion of the existing restaurant into a portion of the space within Goodwives Shopping Center formerly occupied by Old King's Highway Pharmacy. The Goodwives Shopping Center is located just south of the corner formed by the intersection of Old King's Highway North and Sedgwick Avenue, and is shown on Tax Assessor's Map #71 as Lot #19, DC Zone.

Some minor clarifications of the draft Resolution were discussed and approved by all members. The Commission members confirmed that there are 58 total seats within the restaurant and a total of 16 seats may be used outside provided, when any of those seats are used outside, a 16 seat portion of the interior of the building is closed off and not utilized.

The following motion was made: that the Commission adopt the following Resolution to approve the project.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
April 20, 2004**

Application Number: Amendment of Business Site Plan #24-K/Special Permit

Tax Assessor's Map #71 Lot #19

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Name and Address of Applicant: Coromandel Cuisine of India Restaurant
Goodwives Shopping Center
25-11 Old King's Highway North
Darien, CT 06820

Name and Address of Applicant's Representative: Steve Payuk
P&A Associates, Inc.
158 Longmeadow Hill Road
Brookfield, CT 06804

Name and Address of Property Owner: Goodwives Center/Urstadt Biddle
321 Railroad Avenue
Greenwich, CT 06830

Activity Being Applied For: Proposing expansion of the existing restaurant into a portion of the space within Goodwives Shopping Center formerly occupied by Old King's Highway Pharmacy.

Property Location: Subject property is in Goodwives Shopping Center, which is located just east of the corner formed by the intersection of Old King's Highway North and Sedgwick Avenue.

Zone: DC Zone

Date of Public Hearing: March 30, 2004

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices

Dates: March 18 & 25, 2004

Newspaper: Darien News-Review

Date of Action: April 20, 2004

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
April 29, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 630 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The application proposes to expand the existing restaurant into a portion of the space within Goodwives Shopping Center formerly occupied by Old King's Highway Pharmacy. The application will expand both the kitchen and patron seating area, and the number of seats will be increased from 40 to a maximum of 58. The number of employees will increase from eight to nine.
2. As part of Business Site Plan #24-G, the Planning and Zoning Commission made a finding under Section 904 of the Darien Zoning Regulations that although according to the regulations, the shopping center would require about 500 more parking spaces that due to the unique nature of the Goodwives Shopping Center, the parking is adequate. Because of the minimal impact on parking created by this application, the Commission finds that no increase in parking spaces would be necessary to accommodate this increase in capacity.
3. About 1,000 +/- square feet of space will be used for this expansion, which includes additional seating and improvements to the kitchen area per the Darien Health Department's recommendations.
4. The proposed hours of operation are 11:30am – 2:00pm and 5:00pm – 10pm, every day.
5. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
6. The elements of the Site Plan, submitted as part of the Special Permit application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.
7. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
8. The nature of the proposed changes and uses are such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.

NOW THEREFORE BE IT RESOLVED that Amendment of Business Site Plan #24-K/Special Permit is hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

1. The Commission hereby approves the floor plan dated 3-30-04 submitted as part of the application materials. Final details of the floor plan may be modified subject to final approval by the Fire Marshal, Health Director, Planning & Zoning Director, and Building Official,

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keeping the overall concept, with kitchen and dining area both expanded. Any final floor plan can have a maximum of 58 seats, combined inside and outside.

2. The maximum approved hours of operation are 11:30am – 2:00pm and 5:00pm – 10pm, every day. Any expansion of those hours will require review and action by the Planning and Zoning Commission.
3. Any proposed changes to the signage will require review and action by the Architectural Review Board.
4. Outdoor dining was approved as part of a prior application. There are no changes in outdoor seating applied for within this application. If there are any change or expansion of hours for outdoor dining, the applicant shall return to the Planning and Zoning Commission for its review and approval.
5. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission, after notice and hearing, reserves the right to modify, suspend, or revoke the permit as it deems appropriate.
6. This is an amendment of an existing Special Permit. All conditions and stipulations of the past approval shall, unless specifically modified herein, remain in full force and effect.
7. The granting of this Business Site Plan/Special Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
8. This permit shall be subject to the provisions of Section 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (April 19, 2005). This may be extended as per Section 1028.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations, the signing of the final approved plans by the Chairman, and filing of the Special Permit form in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

The motion was made by Mr. Spain, seconded by Mr. Kenny. All members voted in favor of the motion except Mr. Conze who abstained because he had not attended the public hearing regarding this matter.

Mr. Conze read the following agenda item:

Land Filling & Regrading Application #94-A, A. Timothy & Margot West, 4 Edgehill Drive. Proposing to regrade the existing driveway within 15 feet of the south and east property lines and perform related site development activities. The subject property is on the south side of Edgehill Drive at the southeast corner formed by its intersection with Searles Road, and is shown on Tax Assessor's Map #67, as Lot #45, in the R-1 Zone.

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The following motion was made: that the Commission adopt the following Resolution to approve the project.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
April 20, 2004**

Application Number: Land Filling and Regrading Application #94-A

Tax Assessor's Map #67 Lot #45

Name and Address of Property Owner: A. Timothy & Margot West
And Applicant: 4 Edgehill Drive
Darien, CT 06820

Name and Address of Applicant's Representative: Jeffrey McDougal
William W. Seymour & Associates
170 Noroton Avenue
Darien, CT 06820

Activity Being Applied For: Proposing to regrade the existing driveway within 15 feet of the south and east property lines and perform related site development activities.

Property Location: The subject property is on the south side of Edgehill Drive at the southeast corner formed by its intersection with Searles Road.

Zone: R-1 Zone

Date of Public Hearing: March 30, 2004

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices

Dates: March 18 & 25, 2004

Newspaper: Darien News-Review

Date of Action: April 20, 2004

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
April 29, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.

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- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to regrade the existing driveway within 15 feet of the south and east property lines and perform related site development activities. Because the regrading would be located within 15 feet of the property line, a Special Permit from the Planning & Zoning Commission is required. The proposal will actually lower the grade of the existing driveway. The existing garage will be removed, and replaced with a new garage with deck above. There are no drainage or safety issues involved with the regrading.
2. ZBA variance approved on January 21, 2004 (Calendar 2-2004). That approval is hereby incorporated by reference.
3. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling Application #94-A is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The filling and regrading shall be in accordance with the plans submitted to the Commission entitled:
 - “Topographic & Zoning Location Survey, Prepared For, A. Timothy West, Margot West”; prepared by William W. Seymour & Associates, P.C.; scale 1”=20’, with last revised date December 12, 2003.
 - West Residence 4 Edgehill Drive Site Plan, by DiVesta Civil Engineering Associates, Inc., dated 2/12/04.
 - Eleven 11”x17” Architectural Plans entitled “West Residence”; prepared by Kolkowitz & Kusske; numbered cover, A-0, A-1 through A-9; labeled Drawing List and General Notes, Proposed Cellar Floor Plan, Proposed First Floor Plan, Proposed Second Floor Plan, Proposed Attic Floor Plan, Proposed South Elevation, Proposed East Elevation, Proposed North Elevation, Proposed West Elevation, Building Section, and Building Section; and last revised December 1, 2003.
- B. Due to the minor nature of the project, the provision of a Performance Bond is hereby waived.

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- C. Sediment and erosion controls shall be installed to properly manage storm water runoff and to minimize any adverse impacts during the construction and until the area has been revegetated or restablilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- E. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- F. This permit shall be subject to the provisions of Section 858 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (April 19, 2005). This may be extended as per Section 858.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

The motion was made by Mr. Spain, seconded by Mr. Kenny. All members voted in favor, except Mr. Conze who abstained because he had not attended the public hearing regarding this matter.

Mr. Conze read the following agenda item:

Coastal Site Plan Review #190, Flood Damage Prevention Application #203, Bohdan & Lily Kurylko, 35 Beach Drive. Proposing to construct additions and alterations to the existing residence and perform related site development activities within regulated areas. The subject property is located on the east side of Beach Drive approximately 1570 feet south of its intersection with Boston Post Road (at the terminus of Beach Drive), and is shown on Tax Assessor's Map #52 as Lot #101, R-1/2 Zone.

The following motion was made: that the Commission adopt the following Resolution to approve the project.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
April 20, 2004**

Application Number: Coastal Plan Site Review #190
Flood Damage Prevention Application #203

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Tax Assessor's Map #52, Lot #101
Street Address: 35 Beach Drive

Name and Address of Property Owner
And Applicant: Bohdan & Lily Kurylko
PO Box 1245
Darien, CT 06820

Name and Address
of Applicant's Representative: Patricia B. Warren
Warren Architecture LLC
56 Milan Road
Woodbridge, CT 06525

Activity Being Applied For: Proposing to construct additions and alterations to the existing residence and perform related site development activities within regulated areas.

Property Location: The subject property is located on the east side of Beach Drive approximately 1570 feet south of its intersection with Boston Post Road (at the terminus of Beach Drive).

Zone: R-1/2 Zone

Date of Public Hearing: March 23, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: March 11 & 18, 2004

Newspaper: Darien News-Review

Date of Action: April 20, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
April 29, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

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1. This application is to construct additions and alterations to the existing single-family residence and perform related site development activities within regulated areas. It also includes a proposal to construct a two-foot high +/- stone wall along the front property line. There are no changes to the existing paved driveway as part of this application. The application is comprised of two parts: 1) a Coastal Site Plan Review under Section 810 of the Darien Zoning Regulations; and 2) a Flood Damage Prevention Application under Section 820 of the Darien Zoning Regulations.
2. The Zoning Board of Appeals approved an application for this project (Calendar No. 6-2004) on February 25, 2004. The Environmental Protection Commission (EPC) also approved an application for this project (EPC #11-2004) on March 3, 2004. Those decisions are hereby incorporated by reference.
3. In its decision, the EPC, in its role as the Conservation Commission for the Town, recommended that the plantings, particularly the White Pine, located within the "deed restricted" area be maintained. That deed restriction/restrictive covenant from Volume 229 Pages 528-530 in the Darien Land Records was submitted as part of the record of this application. Since the enforcement of private deed restrictions/restrictive covenants are outside of the purview of the Planning and Zoning Commission (P&Z), P&Z takes no position on this matter, and leaves its final disposition up to the property owner and the neighbor who is the beneficiary of the deed restriction/restrictive covenant.
4. It was also noted during the public hearing that this portion of Beach Drive is a private road, and no on-street parking is allowed. Although evidence was presented that shows vehicles parking on the street, that issue is not within the Planning and Zoning Commission's purview in Sections 810 and 820 of the Darien Zoning Regulations.
5. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
6. The proposed activities, including the additions and alterations to the residence and construction of a two-foot high +/- stone wall, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.
7. The Commission finds that the proposed development, as described in the application, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
8. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
9. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined

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herein include all reasonable measures that would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #125-B and Flood Damage Prevention Application #123-B are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction of additions and alterations to the existing residence and construction of the proposed two-foot high +/- stone wall shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
- Zoning Location Survey 35 Beach Drive prepared for Bohdan I. Kurylko Lily A. Kurylko, by William W. Seymour & Associates, last revised February 3, 2004.
 - Kurylko Residence Landscape Plan prepared by Sidney Marshman, dated February 7, 2004.
 - Kurylko Residence 35 Beach Drive Site Plan, by Warren Architecture, LLC, dated 1-15-04.
 - Kurylko Residence 35 Beach Drive, by Warren Architecture, LLC,
 - Sheet A-1 Foundation Plan last revised 1-13-04;
 - Sheet A-2 First Floor Plan last revised 1-13-04;
 - Sheet A-3 Second Floor Plan last revised 1-13-04;
 - Sheets A-4 and A-5 Elevations last revised 1-13-04.

If the applicant chooses to modify the design of the proposed front stone wall slightly to accommodate the concerns of the neighbor backing out of the driveway across the street, then the Director of Planning can review and act upon such a change, however the Commission is not requiring that any such modification be undertaken.

- B. As noted within the EPC approval, any dumpster or container to be used during construction shall be located on the existing driveway. All stockpiling of material shall occur in the front yard.
- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. Prior to the request for the Zoning Permit for the construction of the new residence, the applicant or owner shall submit certification from a licensed architect or professional engineer that the foundation structures have been designed to withstand all flood forces and comply with the flood damage prevention requirements for structural stability.
- E. When the construction is nearing completion, written certification shall be provided from a registered Professional Architect or Professional Engineer that the construction and flood proofing has been completed in conformance with this permit and the Zoning Regulations.

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This certification shall be provided to the Planning and Zoning Department prior to use or occupancy of the house and prior to the issuance of a Certificate of Occupancy, per Section 829e of the Darien Zoning Regulations. Also prior to a Certificate of Occupancy being issued, a shoreline planting/site landscaping plan must be approved and fully implemented, as specifically required within the EPC approval.

- F. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- G. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this approval as it deems appropriate.
- H. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (April 19, 2005). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan, as approved, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

The motion was made by Mrs. Forman, seconded by Mr. Kenny. All members voted in favor except Mr. Conze who had not attended the public hearing.

Mr. Conze read the next agenda item:

Land Filling & Regrading Application #117, Juan & Leslie Colon-Collazo, 11 Old Oak Road.
Proposing to relocate and revise the driveway and perform related site development activities. The subject property is on the northeast side of Old Oak Road, approximately 300 feet north of its intersection with Leeuwarden Road, and is shown on Tax Assessor's Map #8, as Lot #5, in the R-1/2 Zone.

The following motion was made: that the Commission adopt the following Resolution to approve the project:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
April 20, 2004**

Application Number: Land Filling and Regrading Application #117

Tax Assessor's Map #8 Lot #5
Street Address: 11 Old Oak Road

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Name and Address of Property Owner: Juan & Leslie Colon-Collazo
6 Woods End Road
Darien, CT 06820

Name and Address of Applicant & Applicant's Representative: Pete Romano
Land-Tech Consultants, Inc.
31 Franklin Street
Westport, CT 06880

Activity Being Applied For: Proposing to relocate and revise the driveway and perform related site development activities.

Property Location: The subject property is on the northeast side of Old Oak Road, approximately 300 feet north of its intersection with Leeuwarden Road.

Zone: R-1/2 Zone

Date of Public Hearing: March 23, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: March 11 & 18, 2004 Newspaper: Darien News-Review

Date of Action: April 20, 2004 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: Newspaper: Darien News-Review
April 29, 2004

The Commission has conducted its review and findings on the bases that:

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

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1. The application involves a proposal to relocate and revise the driveway and perform related site development activities. The grade of the existing driveway is approximately 13%. The grade of the new driveway will be about 9%.
2. Environmental Protection Commission (EPC) approval was granted for this project on November 5, 2003 (EPC #104-2003). That approval is hereby incorporated by reference.
3. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling & Regrading Application #117 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The filling and regrading plan shall be modified as recommended by the Public Works Department to direct overflow water from the drainage system toward the nearby watercourse rather than having that water enter the street. Additional drainage system provisions may also be required of the applicant by the Public Works Department in the vicinity of where the existing driveway will be filled in after the new driveway is installed. Such additional drainage facilities would be to collect and manage any surface and/or groundwater so that it does not create icing or other safety problems in the street. The modifications shall be made to the plans submitted to the Commission entitled:
 - “Map of Proposed Driveway Entrance prepared for Juan & Leslie Colon-Collazo”, 11 Old Oak Road, scale 1”=10’, last revised March 23, 2004.
- B. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond, however the Public Works Department may require a Performance Bond for work within the Town street Right of Way.
- C. During the filling and regrading project, the applicant shall utilize sediment and erosion controls to properly manage storm water runoff and to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- E. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.

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- F. This permit shall be subject to the provisions of Section 858 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (April 19, 2005). This may be extended as per Section 858.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

The motion was made by Mr. Kenny and seconded by Mrs. Forman. All members voted in favor except Mr. Conze who did not attend the public hearing regarding this matter.

Mr. Conze read the next agenda item:

Discussion of status of property at 273 West Avenue.

Discussion of property owner's options relative to the existing merged property adjacent to People's Bank. The property is situated on the south side of West Avenue approximately 150 feet west of the intersection of Edgerton Street and West Avenue and is shown on Tax Assessor's Map #75 as Lots #3 and #4, being 273 West Avenue and located in a DC (commercial) Zone. *Update from Staff.*

The Commission members discussed the possible rezoning of a portion of the property from Design Commercial to residential and the possible expansion of the People's Bank drive-thru facilities. Commission members felt that it would not be appropriate to change the zone around the existing residence because it would necessitate the establishment of a 25 foot wide buffer area on the People's Bank portion of the site and would reduce the effective, usable area in the near term and long term scenarios. They agreed that leaving the property in the DC Zone was appropriate but making some provision for the expansion of the People's Bank parking and drive-thru facilities would be appropriate.

No action was taken by the Commission regarding this matter.

Mr. Conze read the next agenda item:

Discussion of March 15, 2004 memorandum from Board of Selectmen regarding parking regulations.

Commission members discussed the draft letter that had been prepared and distributed to each member. There were several minor modifications to the letter that were discussed and it was agreed that the Chairman would work with the Director of Planning to finalize the letter and send a response to the Selectmen.

Approval of Minutes

March 23, 2004 Public Hearing

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The following motion was made: that the Commission adopt the minutes as presented. The motion was made by Mrs. Forman, seconded by Mr. Bigelow and unanimously approved.

Mr. Conze read the next agenda item:

Any Other Business (requires two-thirds vote of Commission)

The following motion was made: that the Commission consider four items under other business. These include the Darien Community Association, the Henderson Fritts project on Goodwives River, Crystal Gardens and the YWCA. The motion was made by Mr. Spain, seconded by Mr. Kenny and unanimously approved.

Darien Community Association (DCA)

Director of Planning Jeremy Ginsberg explained that the DCA is considering the possibility of three outdoor concerts during the summer months. These concerts would be conducted on a Sunday afternoon and would last for approximately three hours. They expect attendance of 150 to 250 people. Commission members said that traffic management, on-site parking, crowd control, clean-up, working with the neighbors, and pre-event ticket distribution would be important factors. The scheduling of such concerts would require an amendment to the existing Special Permit and, before the Commission could act on a request, all of those issues would need to be resolved.

Henderson Fritts property on Goodwives River Road

Director of Planning Ginsberg explained that the driveway improvements are required to be completed by May 31, 2004. Due to a variety of circumstances, the property owner has asked for a two month extension so that the improvements will not be required to be completed until July 31, 2004. Commission members discussed the request and the following motion was made: that the extension until July 31, 2004 be granted. The motion was made by Mr. Spain, seconded by Mr. Bigelow and unanimously approved.

Crystal Gardens

Director of Planning, Jeremy Ginsberg, explained that the current proposal is to reduce the amount of floor space occupied by the florist to approximately ½ of the building and to lease the other half of the building to a furniture/antique store. Commission members noted that the past actions of the Zoning Board of Appeals limited the occupancy to one business, the florist, and that modifying the use would require Zoning Board of Appeals action prior to the Planning & Zoning Commission action.

YWCA

Director of Planning Jeremy Ginsberg explained that the YWCA has had discussions with Jerry Nielsen about the possibility of relocating their facilities and operations to the Nielsen office park. The office park is in a designed office and research zone that does not permit business and professional offices. Traffic in the DOR zones is generally limited to employees going to the site in the morning and leaving the site in the afternoon. Customers and clients rarely go to offices within the DOR zones. The YWCA would like to establish its day care center and other services and operations within the DOR zone. The Commission members felt that this would not be an appropriate use of property within the office park.

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There being no further business the meeting was adjourned at 9:15 p.m.

Respectfully submitted,

David J. Keating
Assistant Director of Planning

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